

contaminant, or radioactive material at the INEEL site which exceeds applicable regulations, standards, or permit conditions, or (b) any other unplanned release to the environment reported by DOE to any external regulatory or media for informational purposes.

Notwithstanding the preceding paragraph, DOE will ensure notification of the designated Tribal representatives immediately in the event of any release of a hazardous substance, pollutant, contaminant, or radioactive material involving shipments of hazardous or radioactive substances to or from the INEEL that may present an imminent and substantial danger to the health or welfare of the Tribes. Additionally, DOE will notify the designated Tribal representative of a release into the environment of hazardous substance, pollutant, contaminant, or radioactive material, or any natural emergency/disaster that occurs on the INEEL that may present an imminent and substantial danger to the health or welfare of the Tribes.

Guidelines for notification for all non-routine releases and transportation accidents shall be applicable DOE Orders, the EPA Protective Action Guides for Radionuclides, and CERCLA Section 103 and SARA Section 304 for reportable hazardous substances.

After any non-routine release as described above, DOE will, at the Tribes' request, hold a debriefing session with the designated Tribal representatives.

If a DOE-related transportation accident occurs on the Reservation, or a DOE related non-routine release or accident occurs off the Reservation which has been determined to affect the Reservation, DOE shall undertake all remedial action required by law, and ensure adequate follow-up environmental surveillance to determine the levels of contaminants and provide this information to the Tribes and their consultants.

7. EMERGENCY MANAGEMENT

The Tribes and DOE agree to meet on a regular basis, and also with the State of Idaho, to ensure open communications and understanding of DOE's Emergency Operations Plan and actions taken in times of chemical or radiological releases for the protection of the public, the environment, and homeland security. DOE will provide timely communication to the Tribes in the event of a chemical, radiological release, or natural emergency situations to ensure that the Tribes have maximum practical time for emergency response and preparedness. The Tribes and DOE agree that Tribal emergency responders and personnel must have proper training on DOE/INEEL-related types of potential chemical and radiological releases, have training on how to respond to such releases, and be adequately prepared to respond to a radiological transportation incident occurring on the Reservation.

The Tribes recognize that DOE has already provided significant training to them, and DOE will continue to work with the Tribes to ensure that they have and maintain their capability to respond to transportation and other emergencies. DOE will provide sufficient additional training and timely information in order for the Tribes to maintain an up-to-date Hazard Analysis and current emergency operations plan for the Reservation. DOE will work with the Tribes to promote Tribal capabilities for transportation emergencies preparedness, including assistance in identifying non-DOE sources of funding to support emergency response.

The Tribes will maintain the TRANSCOM system and be provided access to INEEL VIZ (NOAA developed software system that displays meteorological data and release dispersion modeling), as they are vital components of the DOE Emergency Operations Center. The Tribes also agree to maintain emergency response equipment and a standard of proficiency to ensure an adequate response capability.

8. PROTECTION OF CULTURAL RESOURCES

The INEEL is located on Federal land, which is recognized as part of the aboriginal territory of the Tribes, and contains Native American Indian cultural resources. Neither the Tribes nor DOE wish to disturb these resources, but both recognize that cultural resources may be affected during the course of activities on the INEEL. Protection of these cultural resources, access to sacred sites and sites of traditional use, and repatriation of Native American Indian human remains and associated cultural items are of paramount importance to the Tribes and DOE. As stewards of the resources on the INEEL, DOE has a trust responsibility to the Tribes in the management of Native American Indian cultural resources on INEEL property and for compliance with cultural resource laws and regulations, executive orders and DOE policy. DOE agrees to continue coordination and consultation with the Tribes in their compliance responsibilities with the laws and regulations, executive orders and memoranda, policies, and DOE Orders. DOE agrees to continue the development of a relationship of trust and openness with the Tribes.

DOE will comply with all applicable federal laws and policies, including but not limited to: The National Historic Preservation Act (NHPA), Native American Graves Protection and Repatriation Act (NAGPRA), Archeological Resources Protection Act (ARPA), American Indian Religious Freedom Act (AIRFA), the DOE American Indian and Alaska Native Tribal Government Policy, Executive Orders and Memoranda, and the DOE Cultural Resource Policy and DOE Orders dealing with the protection of cultural resources as defined.

DOE understands the Tribes' position that cultural resources include, but are not limited to, natural resources, sacred sites, traditional cultural properties, camps, burial areas and associated funerary objects, and other items of Tribal cultural patrimony. DOE further understands that objects of religious, traditional, or historic importance to the Tribes include traditional plants, wildlife, and landscapes. When the DOE or its contractors undertake any survey, study, testing, removal, or excavation of cultural resources on the INEEL site that has the potential to disturb any of those cultural resources, the DOE will notify the Tribes. DOE will involve the Tribes by providing access, opportunities for participation in project planning, and determining affects to the resource except where Tribal involvement is precluded for national security reasons. DOE will provide the Tribes reasonable opportunity and adequate time frames to comment and respond to the undertaking. DOE also agrees to engage in government to government, Section 106 of NHPA, or other applicable consultation where required by applicable federal laws, regulations, Presidential Executive Orders and Memorandum, DOE Policies, and DOE Orders. Further, compliance with Section 106 of the NHPA requires DOE to take into account the effects of the federal undertaking on any historic property or historic resource as defined in Section 301 of the NHPA. The Tribes agree to provide to the DOE any information regarding INEEL sites of known cultural significance.

DOE and the Tribes will use the INEEL draft cultural resources consultation procedures as a guide and starting point, not as a substitute, for achieving the consultation requirements of applicable federal laws, regulations, orders, and policies.

The Tribes will provide timely response to DOE, within thirty (30) days or as otherwise agreed, regarding the NHPA Section 106 process reviews for federal undertakings on the INEEL. Final reports of any such studies, surveys, testing, excavation, or removals of cultural resources will be provided to the Tribes.

In the event that human remains or burial sites are inadvertently discovered, accidentally exposed, or potentially threatened the Tribes will be contacted immediately and consultation, as outlined in the draft cultural resources consultation procedures will be initiated.

DOE agrees that Tribal representatives will be permitted to view any discoveries or remains and cultural artifacts, will be authorized to do site inspections of any archeological discovery or excavation, and will be permitted to be present during any archeological excavation, survey, study, or testing on the INEEL site.

The 1994 Memorandum of Understanding between the Tribes and DOE regarding access to the Middle Butte area will continue to be in effect. In addition, DOE will negotiate in good faith with the Tribes concerning Tribal access to other undeveloped areas of the INEEL. Access for cultural or religious purposes for Tribal members will be considered and accommodated on a case-by-case basis. Health, safety, and security may be issues for consideration in granting access.

The Tribes, DOE, and DOE contractors shall not release, or allow the release of, any information pertaining to the exact location of any Native American Indian burial sites, archeological sites, or significant sites identified as Native American Indian to the public, unless required by law or legal authority. The Tribes will maintain documents in a manner which prevents release to unauthorized individuals. DOE will coordinate with the Tribes prior to approving, for external publication, any documents that have been prepared as a result of the study, analysis, research, or other work done under the direction and control of DOE, on or in relation to Native American Indian human remains or archeological resources on or from the INEEL. Publication of work done on archeological resources under curation will be as set forth in the curation agreement with the Idaho Museum of Natural History. For DOE controlled publications that concern Tribal cultural matters, DOE will provide for Tribal review and comment prior to publication, and DOE will make a good faith effort to ensure that the sensitivity and safety of all materials are not compromised. In the event that the Tribes disagree with portrayal of Tribal cultural matters in a DOE-controlled publication, DOE will provide for inclusion of a Tribal historical position in such publication. All parties will maintain documents in a manner which prevents the release of sensitive cultural resource information to unauthorized individuals.

DOE and the Tribes, in coordination with the Management and Operations contractor, will finalize and implement a cultural resources management plan which outlines procedures to

ensure appropriate management, consultation, and protection of Native American Indian human remains, sacred sites, archeological sites, and other cultural resource issues.

9. RISK ASSESSMENT OR HEALTH STUDIES

Residents of the Reservation shall be considered in all regional health and environmental risk assessments conducted by DOE, its contractors or subcontractors, that encompass areas near or affecting the Reservation, and results of the studies, both preliminary and final, shall be presented to the Tribes.

10. TRIBAL SELF-SUFFICIENCY

DOE is committed to working with the Tribes in a variety of areas to enhance Tribal efforts to maintain self-sufficiency and economic well-being. DOE will provide guidance, mentoring, and other support through technical assistance programs to Tribal students and other Tribal members in their career pursuits, and will assist the Tribes in their educational development initiatives.

DOE will work with the Tribes to help Tribal members become aware of employment opportunities at the INEEL and of the knowledge and skills they must acquire in order to qualify for employment. DOE, its contractors, and subcontractors will provide notice to the Tribes, through notice to the Tribal Employment Rights Ordinance (TERO) Office and publication in the Sho-Ban News, of employment opportunities; and DOE and its contractors will consider Tribal member applications in accordance with applicable preference and equal opportunity policies, laws, and regulations. Representatives from the INEEL will visit the Reservation periodically to brief Tribal members on job opportunities and assist them in preparing applications and other required documents.

DOE agrees to hold annual meetings between Tribal officials and representatives from DOE and the INEEL contractors and subcontractors to discuss opportunities for small business contracts. In addition, DOE will brief Tribal representatives on the INEEL Community Assistance Program and provide assistance to the Tribes to the extent allowed by the Stevenson-Wydler Technology Innovation Act.

11. PROMOTING TWO-WAY INTERACTION, UNDERSTANDING, AND COOPERATION

DOE and the Tribes mutually agree to work toward the promotion of mutual understanding of each other's duties and responsibilities for the benefit of: DOE Operations, activities, and public; and to benefit the Tribes' sovereignty, treaty rights, and protection of its membership and public.

12. ACCESS TO DOE AND CONTRACTOR PERSONNEL AND FACILITIES

In implementing this Agreement, the Tribes' representative should generally contact the DOE Program Manager or the Director for Communications. In those cases where working relationships/lines of communication have been established, coordination between those parties

is acceptable. Tribal/DOE Program Director and the DOE Program Manager shall be consulted regarding any agreement or significant communication between DOE and Tribal personnel, unless otherwise provided in this Agreement.

Any necessary or desired contact between Tribal personnel and DOE contractor personnel and facilities will generally be arranged through DOE. In some cases, where lines of communication have been established between the Tribes and contractor governmental relations or technical personnel, direct contact is acceptable, provided no additional costs result.

To enter the INEEL or any DOE or INEEL contractor controlled facilities, Tribal personnel must comply with DOE badging and security requirements as arranged through the DOE Program Manager. Entry to some facilities or portions of facilities may be precluded because of safety or security requirements. Entry to certain areas may require specific safety training. DOE or its contractors will provide any specific safety training required for entry.

13. CONTROLLED DOCUMENTS

None of various provisions of this Agreement shall be construed as providing for the release of reports or other information designated as "Classified" or "Unclassified Controlled Nuclear Information" (UCNI) to the Tribes, or waiving any other security requirements. Classified information includes National Security Information (10 CFR Part 1045) and Restricted Data (10 CFR Part 1016). Unclassified Controlled Nuclear Information is described in 10 CFR Ch. X, Part 1017. In the event that information requested under the provisions of this Agreement is determined by DOE to be exempt from disclosure under the Freedom of Information Act, providing the information is not Classified or UCNI, is not controlled by the Privacy Act, and does not contain proprietary information or intellectual property information, DOE may, to the extent authorized by law, provide such information to the Tribes upon receipt of the Tribes' written assurance that the Tribes will maintain the confidentiality of such information.

14. RESOURCES

DOE will provide financial assistance to the Tribes for the purpose of carrying out the provisions of this Agreement, provided the U.S. Office of Management and Budget and Congress approve funding requests. The financial assistance will be provided through Cooperative Agreement DE-FC07-03ID14443 (or succeeding agreements) consistent with DOE financial assistance rules set forth in 10 CFR Subchapter H, Part 600. The Tribes' obligations to perform under this Agreement are contingent upon adequate funding by DOE. All funds provided to the Tribes are Federal funds to be administered exclusively by the Tribes consistent with the provisions of the Cooperative Agreement. No provision herein shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. Sec. 1341.

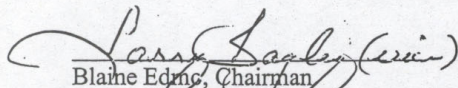
15. AMENDMENTS AND TERMINATION

This Agreement shall continue in effect from the date of execution for a five (5) year term, and may be modified as mutually agreed. This Agreement shall only be amended or terminated by the written mutual agreement of both parties; provided, however, that DOE funding obligations

under this Agreement may be suspended or terminated by DOE, in whole or in part, if DOE determines in accordance with applicable laws and regulations that the Tribes are not in compliance with the terms and conditions of the Cooperative Agreement or in the event that appropriations are not available.

FOR THE SHOSHONE-BANNOCK
TRIBES:

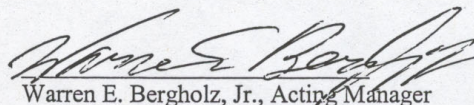
Signed:


Blaine Eding, Chairman
Fort Hall Business Council

Date: 12-10-02

FOR THE U.S. DEPARTMENT OF
ENERGY:

Signed:


Warren E. Bergholz, Jr., Acting Manager
Idaho Operations Office

Date: 12/10/2002

12/10/02 FIVE-YEAR AGREEMENT IN PRINCIPLE - 12

Terms Defined

1. Aboriginal Territory – Those lands or areas historically and traditionally occupied, frequented or used by a specific group or Tribe to live or subsist.
2. Ceded Lands – Lands, which are granted, relinquished, assigned, transferred, typically by Treaty. Ceded territories are those lands formerly occupied by Indians that were relinquished to the U.S. government during the Treaty process.
3. Consult (Consultation) – Consultation includes, but is not limited to, prior to taking any action with potential impact upon American Indian and Alaska Native nations, providing for mutually agreed protocols for timely communication, coordination, cooperation, and collaboration to determine the impact on traditional and cultural life ways, natural resources, treaty and other federally reserved rights involving appropriate Tribal officials and representatives throughout the decision-making process, including final decision-making and action implementation as allowed by law, consistent with a government-to-government relationship. For purposes of this Agreement, the consultation process includes: 1) notifications and discussions at a working level; 2) technical briefings and discussions to mitigate impacts and effects; and 3) where required or necessary to resolve disputes, formal government-to-government consultation between the Tribal Council and the DOE-Idaho Operations Office Manager.
4. Cultural Resources – For the purposes of this Agreement cultural resources include, but are not limited to: archaeological materials (artifacts) and sites dating to the prehistoric, historic, and ethno historic periods that are located on the ground surface or are buried beneath it, natural resources, sacred objects, and sacred sites that have importance for American Indian and Alaska Native peoples; resources that the American Indian and Alaska Native nations regard as supportive to their cultural and traditional life ways.
5. Historic Properties or Historic Resources – Any prehistoric or historic district, site, building, structure, or objects included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource. 16 U.S.C. § 470w(5).
6. Government-to-Government – This relationship acknowledges Tribal governments as sovereign entities with primary authority for the protection of the health, safety, and welfare of their citizens. Status as a sovereign nation requires the federal government to interact with tribal governments on an official basis, one government to another. Government-to-government also recognizes a Tribe's right to self-government and self-determination.
7. Reservation Lands – Reservations are established by treaty and specifically sets aside a geographic area for exclusive occupation by a Tribe or Band of Indian people.

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8. Trust (Responsibility) – Trust Responsibility includes, but is not limited to: promotion and protection of Tribal Treaty rights, federally recognized interests of the beneficiary American Indian and Alaska Native nations; determining, documenting, notifying, and interacting with tribal governments with regard to the impact of Departmental programs, policies, and regulations to protect American Indian and Alaska Native traditional and cultural life ways, natural resources, treaty and other federally recognized and reserved rights.
 9. Withdrawal – Withdrawal means withholding an area of Federal land from settlement, sale, location, or entry under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or over an area of Federal land from one department, bureau or agency to another department, bureau or agency. (41 CFR, Section 2300.0-5)

